

**TENNESSEE VALLEY AUTHORITY  
AMENDMENT TO NOTICE AND TERMS OF PUBLIC AUCTION  
TVA TRACT NO. XNJR-21**

WHEREAS TVA signed a Notice of Public Auction Sale on November 9, 2005, which gave notice that TVA, as legal agent of the United States of America, plans to sell a tract of land at public auction in accordance with the Terms of Public Auction contained in Exhibit A, which was attached thereto and made a part thereof. Said auction will occur no later than February 28, 2006; and

WHEREAS TVA desires to amend the provisions of the terms of sale contained in said Exhibit A, as set forth in section 2. B. Exchange Lands.

NOW THEREFORE, notice is hereby given that TVA hereby modifies and amends the first paragraph of said section 2. B. to add the following:

This determination of acceptability will be made based on the criteria in Appendix D of the Final Supplemental Environmental Assessment for the Proposed Development of Tract XNJR-3PT (Nickajack Shores) prepared by TVA in September 2005 a copy of which may be obtained on the TVA web site at [www.tva.gov/environment/reports/littlecedar2/index.htm](http://www.tva.gov/environment/reports/littlecedar2/index.htm). This determination of acceptability includes a finding that the Exchange Lands include natural and public resources similar to or better than the Property,

Signed this 29<sup>th</sup> day of November, 2005.

TENNESSEE VALLEY AUTHORITY  
legal agent of the  
UNITED STATES OF AMERICA



JOEL E. WILLIAMS,  
Manager, Realty Services

For information regarding the sale, for a copy of the Notice of Public Auction, to inspect the property or to qualify to bid, contact:

Chellye Campbell, TVA,  
SB 1H-M, Reservation Road  
Muscle Shoals, Alabama 35661  
Phone: 256.386.3518  
Fax: 256.386.2954  
Email: [ccampbell@tva.gov](mailto:ccampbell@tva.gov)

**TENNESSEE VALLEY AUTHORITY  
NOTICE OF PUBLIC AUCTION  
TVA TRACT NO. XNJR-21**

**LITTLE CEDAR MOUNTAIN  
NICKAJACK RESERVOIR**

WHEREAS, in accordance with Section 31 of the Tennessee Valley Authority Act of 1933, as amended, the Board of Directors of the Tennessee Valley Authority (sometimes hereinafter referred to as "TVA") has approved the sale of a tract of land containing approximately 578 acres, more or less, located in Marion County, Tennessee, known as the Little Cedar Mountain area designated in the TVA land files as Tract No. XNJR-21 and specifically described in Exhibit B and shown on Exhibit C, both of which are attached hereto and made a part hereof (the "Property"); and

WHEREAS, with respect to land owned by the United States of America ("USA") fronting said TVA Tract No. XNJR-21 which may at any time and from time to time lie exposed and unsubmerged between the 640-foot mean sea level (msl) contour elevation and the waters of Nickajack Reservoir (the "Abutting Shoreline Area") and in the waters immediately adjacent to said Abutting Shoreline Area but solely at locations and in accordance with plans approved in advance and in writing by TVA, the following appurtenant rights will be conveyed: 1) the right to develop, construct, operate, maintain, and use for public commercial recreational and public recreational purposes such facilities, structures and other improvements not subject to damage if flooded; and 2) the further right of suitable ingress and egress over said Abutting Shoreline Area to and from the waters of Nickajack Reservoir and to and from all facilities, structures, and other improvements developed, constructed, operated, maintained or used in, on, or over said land or waters, all upon the express condition that said rights shall not in any way interfere with TVA's statutory program for river control and development, including but not limited to the right to flood said Abutting Shoreline Area, and TVA shall not be liable for any loss or damage resulting therefrom. It is expressly stipulated that said Abutting Shoreline Area may be used and improved solely at locations and in accordance with plans specifically approved in advance and in writing by TVA.

NOW, THEREFORE, notice is hereby given that TVA, as legal agent of the United States of America, will sell said Property and appurtenant rights thereto at public auction in accordance with the Terms of Sale contained in Exhibit A, which is attached hereto and made a part hereof.

Bid packages must be submitted to TVA prior to 12 Noon, EST, on December 1, 2005. TVA will review said packages based on the criteria specifically set forth in said Exhibit A in order to determine which applicants qualify to bid at the auction. TVA will inform prospective bidders whether they qualify to bid prior to 5:00 p.m., EST, on February 1, 2006.

Once bidders are qualified, TVA will set a date and time for the auction and will so notify the qualified bidders. Notice of the date and time for the auction will also be posted on TVA's website at [www.tva.gov/surplus/auctions.htm](http://www.tva.gov/surplus/auctions.htm). The auction will occur no later than February 28, 2006.

The Property and appurtenant rights thereto will be sold to the Qualified Bidder, as defined in said Exhibit A, offering the highest and best bid at the auction consisting of a combination of cash and Exchange Lands as specifically set forth and defined in said Exhibit A.

The Property will be sold subject to restrictive covenants that will perpetually restrict the use thereof to residential, commercial recreational, and public recreational purposes. In addition, the Property and appurtenant rights thereto will be conveyed by Special Warranty Deed subject to such other covenants, terms, conditions, restrictions, reservations, exceptions, and/or limitations as are specifically set forth in said Exhibit A and as may be announced on the day of the sale.

Signed this 9<sup>th</sup> day of November, 2005.

TENNESSEE VALLEY AUTHORITY  
legal agent of the  
UNITED STATES OF AMERICA



JOEL E. WILLIAMS,  
Manager, Realty Services

For information regarding the sale, for a copy of the Notice of Public Auction, to inspect the property or to qualify to bid, contact:

Chellye Campbell, TVA,  
SB 1H-M, Reservation Road  
Muscle Shoals, Alabama 35661  
Phone: 256.386.3518  
Fax: 256.386.2954  
Email: [ccampbell@tva.gov](mailto:ccampbell@tva.gov)

003747918

**EXHIBIT A  
TO  
TENNESSEE VALLEY AUTHORITY  
NOTICE OF PUBLIC AUCTION  
TVA TRACT NO. XNJR-21**

**LITTLE CEDAR MOUNTAIN  
NICKAJACK RESERVOIR**

**TERMS OF PUBLIC AUCTION**

**1. BIDDER QUALIFICATIONS**

In order to qualify to bid, prospective bidders must submit the following to TVA, prior to 12 noon, EST, on December 1, 2005, unless another time is indicated. TVA shall inform prospective bidders whether they qualify to bid prior to 5:00 p.m., EST, on February 1, 2006. Prospective bidders shall:

- A. Provide TVA with a letter of intent to bid; and
- B. Submit to TVA a deposit in the amount of \$100,000 in the form of a cashier's check or electronic funds transfer ("Deposit"). TVA will hold the Deposit pending the auction at which time the successful bidder's Deposit shall be applied to the sale price of the Property. Any Deposits received from qualified bidders who submit at least one bid will be refunded by TVA within five (5) business days of the auction. Any Deposit received from qualified bidders who fail to submit a bid will be retained by TVA. As to any prospective bidders who fail to qualify, their Deposits less any actual administrative costs incurred in reviewing their qualification packages will be refunded by TVA; and
- C. No later than sixty (60) days from the date hereof, submit evidence, satisfactory to TVA, in its sole discretion, of their financial ability to consummate the sale; and
- D. Provide TVA with evidence, in a form or content acceptable to TVA, that the potential bidder currently owns appropriate Exchange Lands (as defined below) deemed acceptable to TVA; and
- E. Submit a concept plan, to be approved by TVA, in its sole discretion, that provides for the mixed-use development of the Property and Abutting Shoreline Area including commercial recreation amenities, and that meets all commitments established by TVA's environmental, cultural resource, and programmatic reviews, including a public availability requirement for the amenities.

**2. TERMS OF PUBLIC AUCTION**

The Tennessee Valley Authority (sometimes hereinafter referred to as "TVA") as legal agent of the United States of America, (sometimes hereinafter collectively referred to as "Grantor") reserves the right to reject any and all bids.

TVA does not represent that the Property will be acceptable as security for loans of money or that it will not be rendered unacceptable as such security by reason of the deed provisions and restrictions applicable thereto. While TVA may have suggested or recommended in its advertising or otherwise what it believes to be the highest and best use of the Property, it does not represent or warrant that the same is safe or suitable in any respect for such use.

In case of dispute, the decision of the auctioneer will govern. In the absence of a dispute requiring the decision of the auctioneer, the sale is final and after the auction, there will be no opportunity to raise bids as permitted in court sales.

In the event the high bidder is unable to make the administrative cost payment upon acceptance of the bid, the Property may be re-auctioned.

Fraudulent bidders may be subject to prosecution under applicable federal statutes.

**A. MINIMUM BID**

All bids at the auction shall consist of a combination of cash and Exchange Lands (as defined below) determined in advance to be acceptable to TVA. The Minimum Bid is SEVEN MILLION TWO HUNDRED THIRTY-THREE THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS (\$7,233,898) which amount includes the following:

1) \$6,628,700 which is the fair market value of the Property and appurtenant rights thereto as determined by a TVA appraisal, with appropriate credit for Exchange Lands as set forth below; 2) \$138,000 for the construction of a trail on adjacent TVA land; and 3) TVA's actual administrative costs incurred in processing this transaction not to exceed \$467,198 ("Administrative Costs"). TVA's administrative costs associated with processing this transaction include the costs associated with pre-sale reviews, evaluation of the Exchange Lands, surveying and conducting the auction.

Bids shall be submitted at the auction in minimum increments of ONE HUNDRED THOUSAND DOLLARS (\$100,000) unless otherwise accepted by TVA. Bids shall be submitted in dollar amounts with appropriate credit for Exchange Lands (as defined below) applied upon close of the auction.

The \$138,000 referenced above will not be considered consideration for the conveyance of the Property but will be used by TVA to construct an approximate four (4) mile interpretive trail with signage and other improvements associated therewith, including by way of example and not by way of limitation a paved parking lot, educational kiosk, directional signs and an interpretive overlook, in, on, over, across, and upon a parcel of TVA land containing 320 acres, more or less, located in the Second Civil District of Marion County, Tennessee, and designated in the TVA land files as Tract Nos. NJR-301, 302, and 303 (XNJR-5PT).

In addition, the successful bidder will be required to bear the expense of relocating a portion of Shellmound Recreation Area and/or provide replacement facilities, as set forth in section 3. SPECIAL WARRANTY DEED, B. CONDITIONS, 2), below and abide by the other development and environmental commitments as set forth herein or as may be announced at the sale.

**B. EXCHANGE LANDS**

Potential bidders shall provide TVA with evidence, in a form and content acceptable to TVA, that they own appropriate lands deemed acceptable by TVA to be exchanged for the Property ("Exchange Lands"). All Exchange Lands will be evaluated by TVA and must meet the following minimum criteria: 1) same approximate acreage as the Property to offset the potential loss of public lands under TVA's control; and 2) located on Nickajack Reservoir or approximately 20 miles upstream or downstream of the Property;

and 3) adjacent to either TVA reservoir property or the reservoir; 4) currently undeveloped; and 5) not in public ownership. TVA has sole discretion to determine whether proposed Exchange Lands are acceptable.

TVA will determine the fair market value of the Exchange Lands based on appraisals. The fair market value of the successful purchaser's Exchange Lands will be credited towards the highest and best bid; provided however, if the value of the Exchange Lands is in excess of the value of the Property, the successful bidder (sometimes "Purchaser" and sometimes "Grantee") will not recover the difference in price nor would any excess value be allowed to offset and apply towards any of the other costs referenced in section 2.A., above.

**C. AUCTION AND PAYMENT**

After the auction, the Purchaser must make settlement with the clerk of the sale and sign an agreement of purchase and sale. Upon close of the auction, the Purchaser will be required to pay TVA's Administrative Costs of FOUR HUNDRED SIXTY-SEVEN THOUSAND ONE HUNDRED NINETY-EIGHT DOLLARS (\$467,198) less the \$100,000 Deposit for an amount due of THREE HUNDRED SIXTY-SEVEN THOUSAND ONE HUNDRED AND NINETY-EIGHT DOLLARS (\$367,198). If the Purchaser has in fact previously paid TVA more than ONE HUNDRED THOUSAND DOLLARS (\$100,000) towards administrative costs, the amount actually paid will be credited against the FOUR HUNDRED SIXTY-SEVEN THOUSAND ONE HUNDRED AND NINETY-EIGHT DOLLARS (\$467,198). Certified cashier's checks or electronic funds transfer are accepted. If the Purchaser, through no fault of TVA, does not proceed to Closing (as defined below), the Administrative Costs shall be retained by TVA as liquidated damages resulting from the Purchaser's default.

**D. SURVEY AND TITLE WORK**

Upon completion of the auction, TVA will survey the Exchange Lands and prepare a map and description thereof. The successful Purchaser shall provide such title information to TVA as may be necessary for TVA to determine that it is acquiring marketable title to the Exchange Lands. TVA has surveyed the Property and has prepared a map and description thereof which will be used for preparation of the deed. Said Property map and description being Exhibit B and Exhibit C, both of which are attached hereto.

**E. CLOSING**

TVA and the Purchaser shall proceed to Closing within 120 days from the date the auction is held or as otherwise agreed to by the parties ("Closing"). The following will occur at Closing:

- 1) Purchaser shall pay TVA via electronic funds transfer the remaining balance of the final bid amount with appropriate credit given for the fair market value of Exchange Lands as determined in accordance with section 2.B., above.
- 2) Purchaser shall convey marketable fee simple title to the Exchange Lands to TVA as legal agent of the United States of America by virtue of a deed containing general warranties of title. In the event TVA placed any conditions on the Exchange Lands in determining them to be acceptable, Purchaser shall meet the requirements of those conditions prior to Closing unless otherwise specified by TVA.

- 3) TVA shall convey fee simple title to the Property by special warranty deed and any improvements located thereon will be conveyed to the Purchaser in an "As-Is, Where-Is" condition without any representation or warranty of any kind, except as specifically set forth therein. The deed will contain special warranties of title and the form of the deed will be provided to qualified bidders prior to the public auction. Title to the Property has been examined by TVA prior to purchase and is believed to be good, but no further warranties or insurance will be furnished by TVA.
- 4) Purchaser will agree to the obligations and stipulations contained in a certain Memorandum of Agreement ("MOA"), a copy of which is attached hereto as Exhibit D and made a part hereof and will require any contract transferring development rights or transferring any unplatted property to a third party for development, to honor and comply with said MOA. Purchaser shall execute a contract at Closing which will contain the real covenant set forth on page 2 of said MOA in section 1. POST AUCTION DISCOVERY.

### **3. SPECIAL WARRANTY DEED**

The special warranty deed for the Property will contain such reservations, conditions, covenants, and/or terms as may be required to comply with applicable law and/or TVA's programmatic reviews and policy specifically including but not limited to the following:

#### **A. RESERVATIONS**

- 1) Grantor will reserve the right to maintain any existing boundary and traverse monuments and silt range stations upon the Property.
- 2) Grantor will reserve permanent flowage easements in, on, over, upon, across and under a portion of the Property consisting of two tracts of land identified in the TVA land records as Tract Nos. NJR-118F and NJR-311F and more particularly shown on said Exhibit C and specifically described in Exhibit E both of which are attached hereto and made a part hereof (the "Flowage Easement Areas"), including but not limited to the right to enter in, on, over, upon, across and under said Flowage Easement Areas to do any and all things that Grantor considers necessary and desirable in connection with its statutory program for river control and development. This right shall include, but not limited to, by reason of lack of specific enumeration; 1) the right to temporarily and intermittently flood said Flowage Easement Areas with backwater created by the erection and operation of any dam or dams across the Tennessee River and its tributaries; 2) the right to clear, ditch, dredge, and drain the Flowage Easement Areas and apply larvicides and chemicals thereon; 3) to carry on bank protection work; 4) to erect structures; 5) to maintain boundary and traverse monuments and silt range stations; 6) to prevent the construction of, or to take possession of, demolish, destroy, dismantle, remove and to sell, or otherwise dispose of, and to retain the proceeds from any disposition of, or to require the Grantee to remove, at its own expense, any buildings, fences, or other structures and the materials comprising same, including any personal property contained in said buildings or other structures which may hereinafter be placed on said Flowage Easement Areas; 7) to prevent the filling or excavation of any portion of said Flowage Easement Areas, and 8) to do any and all other things which Grantor deems necessary or desirable in the promotion and furtherance of public health, flood control, and navigation; provided that in the exercise of Grantor's rights, the Grantor shall use its best efforts to avoid any unreasonable or unnecessary interference with Grantee's use of the Property.

Grantor shall not be liable for any loss or damage to the Flowage Easement Areas or for any improvements located thereon due to erosion or soakage of said land as a result of wave action, fluctuation of water levels, or other causes.

- 3) Grantor will reserve a flowage easement in, on, over, upon, across and under a portion of the Property identified in the TVA land records as Tract No. NJR-119F and more particularly shown on said Exhibit C and specifically described in said Exhibit E (the "Flowage Easement Area"), which rights shall include but not be limited to the right to enter in, on, over, upon, across and under said Flowage Easement Area to do any and all things that Grantor considers necessary and desirable in connection with its statutory program for river control and development, including the right to temporarily and intermittently flood said Flowage Easement Area with backwater created by the erection and operation of any dam or dams across the Tennessee River and its tributaries and Grantor shall not be liable for any loss or damage to the Flowage Easement Area, or for any improvements located thereon due to erosion or soakage of said land as a result of wave action, fluctuation of water levels, or other causes; provided however, if Grantee fills all or any portion of the Flowage Easement Area in accordance with plans approved in advance and in accordance with TVA's policies and procedures under Section 26a of the TVA Act, Grantor shall no longer have the right to flood said Flowage Easement Area as to all or any portion thereof filled as approved in accordance herewith.

#### **B. CONDITIONS**

The Property is conveyed subject to the following conditions which shall be binding on Grantee, its successors and assigns. Grantor may enforce the conditions and/or covenants contained in said deed by bringing an action or actions at law or in equity against any person, persons, or entity violating or attempting to violate any such conditions and/or covenants, either to restrain violation or to recover damages therefor, or both. Furthermore, if Grantee breaches said conditions and/or covenants, in addition to any other remedies provided at law, TVA may revoke any permits issued in accordance with Section 26a of the TVA Act, and any unauthorized activities may be remedied by TVA at Grantee's expense.

- 1) The Property shall be used solely for residential, commercial recreational and public recreational purposes. The Grantee shall develop the Property for these purposes in accordance with the TVA Nickajack Reservoir Land Management Plan, a copy of which can be found in the TVA Chickamauga-Hiwassee Watershed Team office, and pursuant to a concept plan which shall be approved in advance and in writing by TVA. Said concept plan shall provide for either a 100-foot open space or vegetative management buffer zone along the eastern boundary of the Property between TVA boundary markers NLCM-12 and NLCM-23 as shown on said Exhibit C. Furthermore, to reduce visual impact to historic structures, a vegetative treeline screening shall be located between TVA boundary markers 1-8 and 1-13 as shown on said Exhibit C.

Grantee shall invest FOUR MILLION DOLLARS (\$4,000,000) within five (5) years from the date of the deed on one or more commercial recreational amenities as identified in the concept plan submitted and approved in accordance with this section 3.B.1). A minimum of twenty-five percent (25%) of the capacity of the amenities chosen to meet this minimum investment requirement shall be made available to members of the general public other than residents of any development which may



be located on the Property. In the event that Grantee has not made said minimum investment within five (5) years from the date of the deed, the Grantor, TVA, or their successors or assigns, may, upon sixty (60) days' written notice, reenter and take possession of the designated Reentry Area, as defined herein, as if this conveyance had never been made. Proof of investment of the amount required to terminate said right of reentry shall be provided to TVA and upon receipt of such proof, TVA shall prepare an instrument to be placed of public record to evidence the release of said right to reenter. Such investment may be by Grantee, its successors and assigns, or by any other person, firm, corporation, state agency or instrumentality, and must be for commercial recreational amenities as set forth above. Grantee, its successors and assigns, shall have the right during a period of sixty (60) days' immediately following the date of such notice of election to exercise said right to reenter, to remove any improvements placed by it on the Reentry Area; and provided further, that Grantee, its successors and assigns, shall restore the Reentry Area to TVA's satisfaction, including any regrading or reseeding TVA may deem appropriate. Title to any such improvements not removed within such 60-day period shall become the property of TVA at TVA's option or may be removed at Grantee's expense. The Reentry Area shall be that portion of the Property as identified by TVA for each Qualified Bidder following examination of the concept plan.

- 2) Grantee shall be entitled to immediate possession of the Property except as to the area known as Shellmound Recreational Area which shall be relocated by the Grantee to the Shellmound Relocation Area, both as generally shown on Exhibit F which is attached hereto and made a part hereof. The Grantee will agree that it shall be responsible for providing replacement facilities as listed in Exhibit G which is attached hereto and made a part hereof. Grantor will reserve the right to remove any facilities currently located on the Property which are not relocated by Grantee. If such removal is not completed by Grantor within thirty (30) days of the date certified for completion of the relocation, such facilities shall become the property of the Grantee.

Grantor will reserve the right for itself and that of the general public to access said recreational area until such time as said recreational area has been relocated by the Grantee; provided, however, upon certification by Grantee of the date upon which the relocation will be completed and the new campground opened, TVA will close the recreational area for a 120-day period. This closure will not be extended or repeated. If the relocation is not completed by the date certified, upon thirty (30) days' written notice to Grantee, TVA will have the right to reenter said Shellmound Recreational Area and access thereto as shown on said Exhibit F and take possession of said land, and to hold, own, and possess the same in the same manner and to the same extent as if the conveyance had never occurred. Grantee shall, within thirty (30) days of such notice and at no cost to Grantor, return the recreational area to operational status.

TVA will agree to require the Shellmound Recreation Area campground operator to amend its commercial general liability policies to provide that Grantee, its directors, officers, agents and employees are additional insureds under such policies until such time as the relocation is complete. In addition, TVA will require the campground operator to provide a certificate of insurance, evidencing the policies and endorsements above, to Grantee. Until such time as the relocation is complete, any license with a campground operator, other than the existing operator, will be subject to the prior approval of Grantee for the purpose of determining the adequacy of the insurance coverage provisions.

**C. COVENANTS**

Grantee, by acceptance hereof, hereby covenants and agrees on behalf of itself, its successors and assigns, that the following shall constitute real covenants which shall attach to and run with the land hereby conveyed and shall be binding upon anyone who may hereafter come into ownership thereof, whether by purchase, devise, descent, or succession:

- 1) Grantee shall maintain on the Property a vegetative management buffer zone which shall remain in a natural condition with no clearing or removal of vegetation unless otherwise approved by TVA in advance and in writing. The width of the buffer zone will vary depending on slope and resource conditions; however, no area shall be narrower than fifty-(50) feet as measured landward from the normal summer pool, 634-foot msl contour elevation unless otherwise approved by TVA. Furthermore, Grantee shall not clear or remove any vegetation on any portion of the adjoining TVA property below the 640-foot msl contour unless done so in accordance with a Vegetative Management Plan approved by TVA in advance and in writing.
- 2) A portion of the Property shown on said Exhibit C as the "Heron Colony", and containing 6.228 acres, more or less, is the site of a great blue heron nesting colony. Grantee shall not develop or otherwise disturb said 6.228 acres until such time as Grantee establishes, to the satisfaction of TVA, in its sole discretion, and TVA agrees in writing, that the great blue heron colony nesting within said 6.228 acres has failed to return to the site for two (2) consecutive years and appears to have abandoned the site.
- 3) Grantee shall not construct any facilities, structures, or other improvements for which approval is required under Section 26a of the Tennessee Valley Authority Act of 1933, as amended, until plans for such facilities, structures, or other improvements have been submitted to TVA and have been approved in writing in accordance with established procedures. Nothing in this instrument shall be construed as constituting or evidencing such approval by TVA. TVA and Grantee will acknowledge and agree that if the Property is at any time in the future subdivided or is in any way held by multiple owners, TVA is in no way obligated to approve or consider requests for any permits for private water-use facilities fronting any portion of the Property.
- 4) Grantee shall not develop, construct, operate, maintain or use any facilities, structures or other improvements, conduct dredging activities or place fill material on any portion of the Property lying below the 640-foot msl contour elevation except to the extent any such facilities, structures or other improvements are not subject to flood damage and are placed solely at locations and in accordance with plans approved in advance and in writing by TVA. As to any activities proposed within the 100-year floodway adopted by Marion County to comply with the National Flood Insurance Program, Grantee shall provide a "No Rise Certification" indicating the development would result in no increase in the number of 100-year floods.
- 5) As to any golf courses which may be located upon the Property, in order to minimize the impacts to water quality, to avoid wildlife exposure to pesticides, and to provide a method of tracking compliance, Grantee shall utilize golf course management practices in accordance with guidelines set forth in the Tennessee Handbook for Golf

Course Environmental Management published by the Tennessee Department of Agriculture and its partners and as approved by TVA or will obtain certification of the golf course under the Audubon International Signature Program or similar programs, as approved by TVA. Site administrators shall handle and apply all pesticides used on the sites in a responsible manner and in accordance with state and federal laws.

- 6) Grantee shall use lighting equipped with full cut-off optics throughout any development which may be located on the Property to reduce visual impacts.
- 7) Grantee shall stabilize existing drainage stream channels to carry any post-development discharge without significant erosion.
- 8) Grantee shall ensure access to state certified public sewage systems and public water supply prior to any development on the Property. Furthermore, Grantee shall not locate any septic tanks on the Property.
- 9) Grantee shall provide notification to potential purchasers or lessees of the Property of TVA's rights affecting said land. Any questions regarding TVA's rights should be addressed to TVA's Chickamauga – Hiwassee Watershed Team, 1101 Market Street, PSC 1E, Chattanooga, Tennessee 37402-2801, telephone 423-876-6706.

**D. NOTICE**

Grantor will agree to give notice in writing of a breach of any of the terms, conditions and/or covenants contained in the deed to any mortgagee or trustee designated in any mortgage or trust deed on the Property of which TVA has been notified in writing and which is actually unpaid and otherwise in force, and shall afford such mortgagee or trustee one hundred eighty (180) days in which to prevent, by foreclosure or otherwise, further violation of the aforesaid terms, conditions, and/or covenants, but the Grantor shall have the right to intervene in and become a party to any litigation involving any such breach.

Invalidation of any of the terms, conditions, covenants or other terms contained in the deed, or any portion thereof, by judgment or court order shall in no way affect any of the other terms, conditions and/or covenants, or any portion thereof, which shall remain in full force and effect. To this end, the provisions of the deed will be declared to be severable.

**E. THIRD PARTY RIGHTS**

The Property is conveyed subject to such rights as may be vested in third parties to existing utility easements and road rights-of-way, and subject to such exceptions, reservations, conditions, covenants, limitations, restrictions, liens and rights of third parties as would be revealed by a physical inspection of the premises and a search of the public records of Marion County, Tennessee. In addition, the Property is conveyed subject to such rights as are vested in the State of Tennessee to highway rights-of-way by virtue of Contract No. TV-25699A dated July 12, 1971, and supplements thereto, copies of which are available in the TVA land files.

**F. SOURCE OF TITLE**

Subject Property was acquired by the United States of America by virtue of the following instruments of record in the office of the Register of Marion County, Tennessee: 1) Warranty Deed dated January 20, 1964, from Elmer Lee Harris and

wife, Mildred Lee Harris, in Deed Book 6-M, page 544 (TVA Tract No. NJR-105); 2) Judgment entered August 16, 1966, by the District Court of the United States for the Eastern District of Tennessee, Southern Division, in Cause No. 4495, styled "USA, ex rel. TVA v. Electra Lay Lasater, Edward Lay, Felice Noel Fry and Herman Lay", in Deed Book 6-S, page 403 (TVA Tract No. NJR-106; 3) Warranty Deed dated June 30, 1965, from John A. Noell, Jr., and wife, Elizabeth Noell, in Deed Book P-6, page 511 (TVA Tract No. NJR-107); 4) Warranty Deeds dated July 27, 1965, from Helen Noel Krebs, Madeline N. Armitage and Felice N. Fry as to an undivided 3/7 interest, in Deed Book 6-I, page 43, and dated June 30, 1965, from John A. Noell, Jr., Felice N. Austin and Lucy N. Brown, as to an undivided 4/7 interest, in Deed Book P-6, page 535 (TVA Tract No. NJR-108); 5) Warranty Deed dated October 6, 1965, from Albert A. Pilgrim and wife, Betty Sue Pilgrim, in Deed Book Q-6, page 337 (TVA Tract No. NJR-117); 6) Judgment entered June 21, 1967, by the District Court of the United States for the Eastern District of Tennessee, Southern Division, in Cause No. 4901, styled, "USA, ex rel. TVA v. Icie Campbell, Non Compos Mentis", in Deed Book 6-U, page 514 (TVA Tract No. NJR-308); 7) Judgment entered March 28, 1969, by the District Court of the United States for the Eastern District of Tennessee, Southern Division, in Cause No. 4773 styled, "USA, ex rel. TVA v. Hunley W. Acuff and wife, Hazel M. Acuff", in Deed Book 7-B, page 243 (TVA Tract No. NJR-309); and 8) Warranty Deed dated May 10, 1966, from Hunley W. Acuff, Jr., and wife, Barbara Acuff, in Deed Book 6, page 31 (TVA Tract No. NJR-310).

xnjr21/termsofsale 11-08-05

003747919

**EXHIBIT B  
TO  
TENNESSEE VALLEY AUTHORITY  
NOTICE OF PUBLIC AUCTION  
LITTLE CEDAR MOUNTAIN  
TVA TRACT NO. XNJR-21**

A parcel of land lying on the west bank of the Nickajack Reservoir, located to the south of Interstate No. 24, in the Second Civil District of Marion County, State of Tennessee, as shown on US-TVA Drawing No. 69 MS 422 K 521(D) R.O, and being more particularly described as follows:

Beginning at a railroad spike (found) (Coordinates: N. 254,036.68, E. 2,093,102.31) in the centerline of Shellmound Road on the US-TVA Nickajack Reservoir boundary line, being Corner No. 3-14A; thence leaving the point of beginning and the centerline of said road and with the reservoir boundary line and the northern line of the herein described parcel S63°07'26"E, 18.80 feet to a concrete monument (found), being Corner No. 3-14A WC; thence S63°07'26"E, 52.72 feet to a concrete monument (found), being Corner No. 3-15; thence S63°07'26"E, 76.47 feet to a point in R. A. Griffith Highway, being Corner No. NLCM-5; thence leaving said reservoir boundary line and continuing with said northern line of the herein described parcel S26°52'40"W, 99.98 feet to a concrete nail and washer (set) in said highway, being Corner No. NLCM-6; thence leaving said highway and continuing with the northern line of the herein described parcel S63°06'27"E, 73.76 feet to an aluminum monument (set), being Corner No. NLCM-6 WC; thence S63°06'27"E, 100.02 feet to an angle iron (set), being Corner No. NLCM-7; thence N26°46'10"E, 270.71 feet to an angle iron (set), being Corner No. NLCM-8; thence N59°48'46"E, 66.05 feet to an angle iron (set), being Corner No. NLCM-9; thence N85°36'22"E, 446.53 feet to an aluminum monument (set), being Corner No. NLCM-10; thence leaving the northern line and with the eastern line of the herein described parcel S19°48'29"W, 494.65 feet to an aluminum monument (set), being Corner No. NLCM-11; thence S63°58'12"E, 342.88 feet to an aluminum monument (set), being Corner No. NLCM-12; thence continuing with the eastern line of the herein described parcel the following calls:

S06°37'51"W, 248.63 feet to an angle iron (set), being Corner No. NLCM-13;  
thence S01°51'17"W, 367.03 feet to an angle iron (set), being Corner No. NLCM-14;  
thence S08°57'03"W, 492.84 feet to an angle iron (set), being Corner No. NLCM-15;  
thence S12°36'21"W, 224.43 feet to an angle iron (set), being Corner No. NLCM-16;  
thence S24°45'17"W, 375.82 feet to an aluminum monument (set), being Corner No. NLCM-17;  
thence S20°08'28"W, 289.75 feet to an angle iron (set), being Corner No. NLCM-18;  
thence S07°43'54"W, 139.67 feet to an angle iron (set), being Corner No. NLCM-19;  
thence S28°15'31"W, 110.47 feet to an angle iron (set), being Corner No. NLCM-20;  
thence S05°34'17"W, 99.60 feet to an angle iron (set), being Corner No. NLCM-21;  
thence S23°52'18"W, 345.75 feet to an angle iron (set), being Corner No. NLCM-22;  
thence S45°44'52"W, 303.98 feet to an aluminum monument (set), being Corner No. NLCM-23;  
thence N66°26'55"W, 323.85 feet to an angle iron (set), being Corner No. NLCM-24; thence  
S27°16'26"W, 255.96 feet to an aluminum monument (set) landward of the 640-foot mean sea level contour line, being Corner No. NLCM-25;

thence with a line landward of and approximating the 640-foot mean sea level contour line and continuing with said eastern line of the herein described parcel the following calls:

S86°35'25"W, 98.02 feet to an angle iron (set), being Corner No. 21X-126;  
thence S30°49'55"W, 205.57 feet to an angle iron (set), being Corner No. 21X-127;  
thence S45°52'21"W, 176.95 feet to an angle iron (set), being Corner No. 21X-128;  
thence S37°06'58"W, 254.92 feet to an angle iron in an aluminum monument with cap missing (set), being Corner No. 21X-129;  
thence S52°02'24"W, 336.59 feet to an aluminum monument (set), being Corner No. 311F-1;  
thence S04°11'22"W, 190.13 feet to an angle iron (set), being Corner No. 21X-130;

EXHIBIT B CONTINUED

thence S12°22'41"W, 156.56 feet to an angle iron (set), being Corner No. 21X-131;  
thence S35°39'34"W, 281.97 feet to an angle iron (set), being Corner No. 21X-132;  
thence S57°57'19"W, 281.60 feet to an angle iron (set), being Corner No. 21X-133;  
thence S15°03'17"W, 129.90 feet to an angle iron (set), being Corner No. 21X-134;  
thence S60°37'43"W, 85.22 feet to an angle iron (set), being Corner No. 21X-135;  
thence N67°03'43"W, 434.35 feet to an aluminum monument (set), being Corner No. 21X-136;  
thence N18°27'17"W, 163.79 feet to an angle iron (set), being Corner No. 21X-137;  
thence N63°37'50"W, 204.43 feet to an angle iron (set), being Corner No. 21X-138;  
thence S38°29'13"E, 114.89 feet to an angle iron (set), being Corner No. 21X-139;  
thence S07°29'20"E, 154.45 feet to an aluminum monument (set), being Corner No. 21X-140;  
thence S41°52'19"E, 286.26 feet to an angle iron (set), being Corner No. 21X-140A;  
thence S33°02'50"E, 144.11 feet to an angle iron (set), being Corner No. 21X-141;  
thence S52°08'45"E, 123.64 feet to an angle iron (set), being Corner No. 21X-142;  
thence S31°54'54"W, 328.85 feet to an angle iron (set), being Corner No. 21X-143;  
thence S07°06'01"W, 235.18 feet to an angle iron (set), being Corner No. 21X-144;  
thence S02°51'11"E, 328.49 feet to an aluminum monument (set), being Corner No. 21X-145;  
thence S30°06'34"W, 135.71 feet to an angle iron (set), being Corner No. 21X-146;  
thence S56°25'14"W, 142.34 feet to an angle iron (set), being Corner No. 21X-147;  
thence S31°06'40"W, 182.58 feet to an angle iron (set), being Corner No. 21X-148;  
thence S85°50'41"E, 170.72 feet to an aluminum monument (set), being Corner No. 21X-149;  
thence S39°36'43"E, 76.51 feet to an angle iron (set), being Corner No. 21X-150;  
thence S02°24'38"W, 240.13 feet to an angle iron (set), being Corner No. 21X-151;  
thence S39°46'44"W, 110.50 feet to an angle iron (set), being Corner No. 21X-152;  
thence S38°24'13"E, 172.91 feet to an angle iron (set), being Corner No. 21X-153;  
thence S50°01'51"E, 143.45 feet to an aluminum monument (set), being Corner No. 21X-154;  
thence S05°28'04"E, 121.11 feet to an angle iron (set), being Corner No. 21X-155;  
thence S66°53'31"W, 454.20 feet to an angle iron (set), being Corner No. 21X-156;  
thence S72°39'51"W, 362.05 feet to an angle iron (set), being Corner No. 21X-157;  
thence N50°11'17"W, 231.31 feet to an angle iron (set), being Corner No. 21X-158;  
thence N76°46'02"W, 348.83 feet to an aluminum monument (set), being Corner No. 21X-159;  
thence S15°43'10"W, 248.77 feet to an angle iron (set), being Corner No. 21X-160;  
thence S64°51'23"W, 200.64 feet to an angle iron (set), being Corner No. 21X-161;  
thence S03°08'08"E, 279.17 feet to an angle iron (set), being Corner No. 21X-162;  
thence S02°57'05"E, 293.66 feet to an angle iron (set), being Corner No. 21X-163;  
thence S34°57'49"W, 267.55 feet to an angle iron (set), being Corner No. 21X-164;  
thence S31°57'02"E, 473.35 feet to an aluminum monument (set), being Corner No. 21X-165;  
thence S77°15'56"E, 237.76 feet to an aluminum monument (set), being Corner No. 21X-166;  
thence S25°30'57"W, 334.08 feet to an angle iron (set), being Corner No. 21X-167;  
thence S62°34'40"W, 264.56 feet to an angle iron (set), being Corner No. 21X-168;  
thence N42°08'33"W, 122.55 feet to an angle iron (set), being Corner No. 21X-169;  
thence N71°36'58"W, 256.10 feet to an angle iron (set), being Corner No. 21X-170;  
thence S72°24'30"W, 166.93 feet to an angle iron (set), being Corner No. 21X-171;  
thence N29°31'16"W, 393.96 feet to an angle iron (set), being Corner No. 21X-172;  
thence N03°08'03"E, 539.18 feet to an aluminum monument (set), being Corner No. 21X-173;  
thence N37°16'51"W, 203.63 feet to an angle iron (set), being Corner No. 21X-174;  
thence N66°35'10"E, 401.57 feet to an aluminum monument (set), being Corner No. 21X-175;  
thence N08°34'40"E, 266.77 feet to an angle iron (set), being Corner No. 21X-176;  
thence N18°27'23"W, 244.67 feet to an aluminum monument (set), being Corner No. 21X-177;  
thence N27°55'01"E, 263.65 feet to an aluminum monument (set), being Corner No. 21X-178;  
thence N79°41'41"W, 94.19 feet to an angle iron (set), being Corner No. 21X-179;  
thence N04°34'40"E, 83.20 feet to an angle iron (set), being Corner No. 21X-180;  
thence N48°14'11"W, 119.73 feet to an angle iron (set), being Corner No. 21X-181;  
thence S69°35'25"W, 171.05 feet to an angle iron (set), being Corner No. 21X-182;  
thence S53°58'27"W, 300.18 feet to an aluminum monument (set), being Corner No. 21X-183;  
thence S74°26'06"W, 122.09 feet to an angle iron (set), being Corner No. 21X-184;  
thence N63°58'21"W, 56.24 feet to an angle iron (set), being Corner No. 21X-185;

EXHIBIT B CONTINUED

thence N09°33'47"W, 143.26 feet to an angle iron (set), being Corner No. 21X-186;  
thence N49°07'25"W, 89.68 feet to an angle iron (set), being Corner No. 21X-187;  
thence S82°28'12"W, 161.24 feet to an aluminum monument (set), being Corner No. 21X-188;  
thence S55°26'24"W, 152.89 feet to an angle iron (set), being Corner No. 21X-189;  
thence S05°37'27"W, 99.49 feet to an angle iron (set), being Corner No. 21X-190;  
thence N80°58'29"W, 84.72 feet to an aluminum monument (set), being Corner No. 21X-191;  
thence S34°40'54"W, 214.60 feet to an angle iron (set), being Corner No. 21X-192;  
thence S34°49'34"W, 232.91 feet to an angle iron (set), being Corner No. 26X-1;  
thence S58°52'40"W, 101.15 feet to an angle iron (set), being Corner No. 26X-2;  
thence S47°40'25"W, 62.30 feet to an angle iron (set), being Corner No. 26X-3;  
thence N47°55'09"W, 57.76 feet to an aluminum monument (set), being Corner No. 26X-4;  
thence N75°22'09"W, 252.15 feet to an angle iron (set), being Corner No. 26X-5;  
thence N53°51'40"W, 88.73 feet to an angle iron (set), being Corner No. 21X-196;  
thence S64°18'43"W, 281.96 feet to an angle iron (set), being Corner No. 21X-197;  
thence N65°41'42"W, 113.63 feet to an aluminum monument (set), being Corner No. 21X-198;  
thence N55°24'37"W, 394.26 feet to an angle iron (set), being Corner No. 21X-199;  
thence N27°38'57"W, 108.74 feet to an angle iron (set), being Corner No. 21X-200;  
thence S17°53'42"W, 99.98 feet to an angle iron (set), being Corner No. 21X-201;  
thence S49°43'09"W, 125.82 feet to an angle iron (set), being Corner No. 21X-202;  
thence N85°05'11"W, 170.69 feet to an aluminum monument (set), being Corner No. 21X-203;  
thence N44°53'24"W, 132.58 feet to an angle iron (set), being Corner No. 21X-204;  
thence S23°36'31"W, 31.39 feet to an angle iron (set), being Corner No. 21X-205;  
thence S29°29'27"E, 103.82 feet to an angle iron (set), being Corner No. 21X-206;  
thence S56°31'47"E, 410.51 feet to an angle iron (set), being Corner No. 21X-207;  
thence S40°46'08"E, 95.36 feet to an angle iron (set), being Corner No. 21X-208;  
thence S04°16'12"W, 185.47 feet to an angle iron (set), being Corner No. 21X-209;  
thence S40°40'51"W, 206.75 feet to an angle iron (set), being Corner No. 21X-210;  
thence S15°11'52"W, 77.28 feet to an angle iron (set), being Corner No. 21X-211;  
thence S80°45'46"W, 88.34 feet to an angle iron (set), being Corner No. 21X-212;  
thence S24°11'06"W, 144.09 feet to an angle iron (set), being Corner No. 21X-213;  
thence S53°29'09"W, 194.31 feet to an aluminum monument (set), being Corner No. 21X-214;  
thence N67°38'51"W, 105.81 feet to an angle iron (set), being Corner No. 21X-215;  
thence S76°29'25"W, 213.78 feet to an angle iron (set), being Corner No. 21X-216;  
thence S78°09'35"W, 178.23 feet to an angle iron (set), being Corner No. 21X-217;  
thence N88°41'41"W, 122.49 feet to an angle iron (set), being Corner No. 21X-218;  
thence S85°06'49"W, 225.17 feet to an angle iron (set), being Corner No. 21X-219;  
thence S74°16'34"W, 190.33 feet to an angle iron (set), being Corner No. 21X-220;  
thence leaving the eastern line and with the western line of the herein described parcel N07°32'20"W,  
1,806.74 feet to an angle iron (set) north of the aforementioned R. A. Griffith Highway, being Corner No.  
21X-221; thence leaving the western line and with the northwestern line of the herein described parcel  
N70°22'02"E, 199.98 feet to an angle iron (set), being Corner No. NLCM-283; thence N03°26'56"E,  
498.70 feet to a railroad spike (found) in the centerline of the aforementioned Shellmound Road and on  
the aforementioned US-TVA Nickajack Reservoir boundary line, being Corner No. 1-13; thence leaving  
said road and with said reservation boundary line and continuing with the northwestern line of the herein  
described parcel S 77°05'57" E, 484.05 feet to a concrete monument (found), being Corner No. 1-12;  
thence N 06°33'12" E, 49.86 feet to a concrete monument (found), being Corner No. 1-11; thence N  
77°17'31" E, 439.99 feet to a concrete monument (found), being Corner No. 1-10A; thence N 06°38'17"  
E, 293.23 feet to a concrete monument (found), being Corner No. 1-8 RM; thence N 06°38'17" E, 15.95  
feet to a point in the centerline of Shellmound Road, being Corner No. 1-8; thence continuing with  
northwestern line of the herein described parcel and said reservation boundary line and with the  
meanders of the centerline of said road in a northeasterly direction forming the following chords:  
S 88°28'22" E, 323.79 feet to a point, being Corner No. 1-9;  
thence N 62°07'37" E, 1,291.32 feet to a point, being Corner No. 1-24;

EXHIBIT B CONTINUED

thence N 50°37'57" E, 131.26 feet to a point, being Corner No. 1-25;  
thence N 55°52'24" E, 147.43 feet to a railroad spike (set), being Corner No. 1-26;  
thence N 43°38'55" E, 305.51 feet to a railroad spike (set), being Corner No. 1-28;  
thence N 59°46'49" E, 360.05 feet to a railroad spike (found), being Corner No. 1-29;  
thence N 72°24'12" E, 1,431.83 feet to a railroad spike (found), being Corner No. 1-32;  
thence N 41°45'32" E, 898.49 feet to a railroad spike (found), being Corner No. 1-35;  
thence N 08°45'09" E, 327.34 feet to a railroad spike (found), being Corner No. 1-36;  
thence N 20°06'35" E, 114.16 feet to a railroad spike (found), being Corner No. 3-1;  
thence N 39°36'36" E, 801.63 feet to a PK Nail (found), being Corner No. 3-2;  
thence N 04°54'41" E, 172.40 feet to a PK Nail (found), being Corner No. 3-3;  
thence N 39°10'22" E, 166.04 feet to a railroad spike (found), being Corner No. 3-9;  
thence N 41°28'09" E, 3,062.88 feet the point of beginning and containing 571.953 acres, more or less.

Positions of corners and directions of lines are referred to the Tennessee State Coordinate System and NAD 83(1990) Horizontal Datum. The elevations for establishing the contours are based on NGVD 1929. Located on VTM Quad SEQUATCHIE, TENN. 100-SE.

This description was prepared from Reservation Maps 69 MS 421 P 508-D-1, R.0 and 69 MS 421 P 508-D-3, R.0, and a survey dated May 25, 2005 by:

A. J. Monsees, RLS  
Tennessee Valley Authority  
MR 4B-C  
Chattanooga, TN 37402-2801  
TN License No. 1843



# EXHIBIT C

## PRELIMINARY

LOCATION MAP

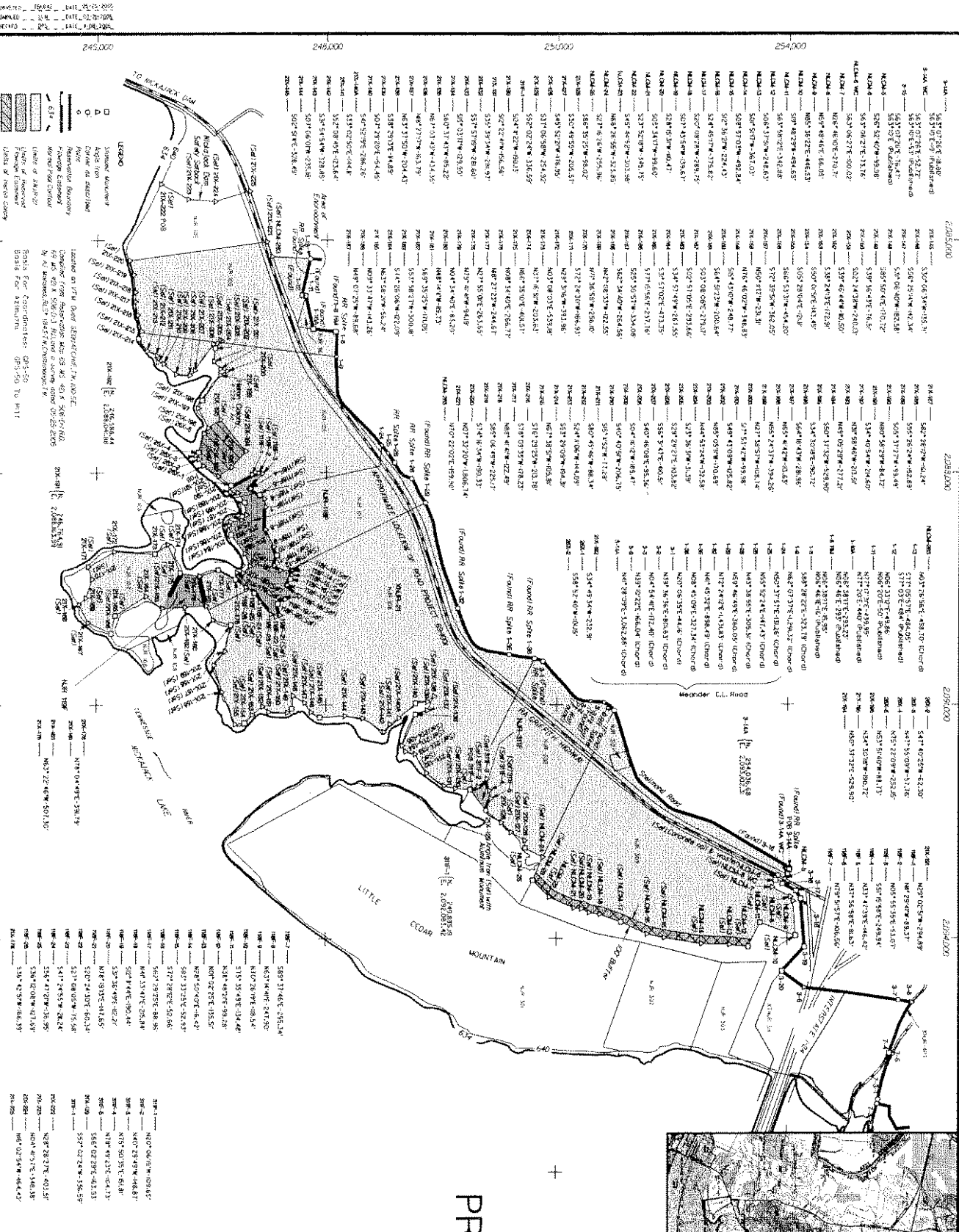
MAP OF NICKAJACK RESERVOIR & NICKAJACK  
MARION COUNTY, TENNESSEE  
SCALE: 1" = 1 MILE  
NICKAJACK RESERVOIR  
MARION COUNTY, TENNESSEE  
DATE: 1987

### LAND CONVEYANCE

### LAND SALE MAP

MARION COUNTY, TENNESSEE  
SECOND CIVIL DISTRICT  
NICKAJACK RESERVOIR  
SURRENDER SERVICES

CHATTANOOGA MAR 2005 681MSI 422 K 82100 RD  
DRAFTING: 880010020



# EXHIBIT D

## MEMORANDUM OF AGREEMENT

Among

TENNESSEE VALLEY AUTHORITY (TVA)  
AND THE TENNESSEE STATE HISTORIC PRESERVATION OFFICE (SHPO),

and

Federally Recognized Indian Tribes

MUSCOGEE (CREEK) NATION OF OKLAHOMA, THE CHICKASAW NATION,  
THE SEMINOLE NATION OF OKLAHOMA, THE CHEROKEE NATION, THE  
THLOPTHLOCCO TRIBAL TOWN, THE KIALEGEE TRIBAL TOWN, THE  
ALABAMA-QUASSARTE TRIBAL TOWN AND THE UNITED KEETOOWAH  
BAND

WHEREAS, the Tennessee Valley Authority (TVA) proposes to auction 578 acres of TVA fee-owned land (Property) on Nickajack Reservoir adjacent to Tennessee River Miles 425-429R, and acquire approximately equal acreage of land within a 20 mile radius in exchange for said Property, and place a hiking trail on Little Cedar Mountain (TVA Tract XNJR-5PT); and

WHEREAS, TVA has consulted with the Tennessee State Historic Preservation Officer (SHPO) and federally recognized Indian tribes, pursuant to 36 CFR Part 800 (the “Regulations”), the regulations of the Advisory Council on Historic Preservation (Council) implementing Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f); and

WHEREAS, TVA has overseen an intensive historic properties survey of the Property to be transferred out of TVA ownership and pursuant to 36 CFR Part 800.4(b), no historic properties were identified; and,

WHEREAS, the Muscogee (Creek) Nation of Oklahoma, Chickasaw Nation, Seminole Nation of Oklahoma, United Keetoowah Band, Kialegee Tribal Town, the Thlopthlocco Tribal Town, the Alabama-Quassarte Tribal Town, and the Cherokee Nation (the “Indian Tribes”) have participated in the consultation and have requested measures to address the possible discovery of historic properties (as defined in 36 CFR Part 800.16(l)(1)) on the Property following its sale to a private owner; and

WHEREAS, the possibility exists for the inadvertent discovery of significant archaeological resources including human remains and associated funerary objects; and

WHEREAS, TVA proposes to conduct phased compliance for the identification, evaluation, and treatment of historic properties that could be affected by the proposed hiking trail; and

WHEREAS, documentation of the area of potential effects (APE) for the proposed land auction and hiking trail, clearly delineated, is made a part of this Agreement by reference as Appendix A.

NOW THEREFORE, TVA, the Tennessee SHPO, and the participating federally recognized Indian Tribes agree to the following stipulations to resolve issues raised during consultation by placing certain obligations on TVA, SHPO, the Indian Tribes and the successful bidder (Purchaser) at the proposed auction of the Property to address post auction discoveries of historic properties. The TVA Federal Preservation Officer, or the designee thereof, shall act for TVA in all matters concerning the administration of this Agreement.

### Stipulations

TVA, in consultation with the SHPO, the Muscogee (Creek) Nation of Oklahoma, the Chickasaw Nation, the Seminole Nation of Oklahoma, the Cherokee Nation, the Thlopthlocco Tribal Town, the United Keetoowah Band, the Kialegee Tribal Town, the Alabama-Quassarte Tribal Town, and the Purchaser will ensure that the stipulations of this agreement are carried out relative to all development within the above-referenced APE.

### I. POST AUCTION DISCOVERY

TVA agrees that Purchaser will be required to recognize and comply with this Agreement in the form of Exhibit A attached hereto. TVA and Purchaser will execute a contract at closing which will contain the following real covenant:

In order to implement and ensure compliance with a Memorandum of Agreement (MOA) regarding cultural resources which is being executed by Purchaser simultaneously herewith; Purchaser shall not sell, assign, or otherwise alienate to a third party undeveloped and non-platted Property or any interest therein, in whole or in part, without requiring any subsequent purchaser, and assignees, of undeveloped and non-platted properties to execute a consent to be bound by the MOA in the form of Exhibit A; provided however, such consent shall not be required if such sale, assignment, or other alienation is for platted properties or lots. Purchaser will provide TVA with satisfactory evidence that any such sale, assignment or other alienation (except as to platted properties or lots) contains terms binding such third party to the MOA prior to such sale, assignment, or other alienation. Any sale, assignment or other alienation of subject Property without compliance with this covenant shall be void and of no effect and TVA or the Indian Tribes may file an action contesting the conveyance or require the subsequent purchaser of undeveloped and non-platted properties to execute a consent to avoid a contest of the conveyance. This consent shall not extend beyond the Construction Period. If there is any transfer of undeveloped, non-platted property, the transferee shall assume full

responsibility for compliance with the MOA as to such property and the Purchaser will be released from any further responsibility under the MOA as to the transferred property

In the event that archaeological deposits or human internments or “cultural items,” as this latter term is defined under the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered anytime during the Construction Period, (as defined herein) the activity must immediately stop within one hundred (100) feet of the discovery and TVA Cultural Resources must be immediately notified (865-632-2453) or via email (culturalresources@tva.gov). Mailing address: WT 11D, 400 West Summit Hill Drive, Knoxville, TN, 37902. For the purposes of this agreement, “archaeological deposits” means: significant intact archaeological features indicating prehistoric human activity or human burials as referenced in Stipulation II. TVA will agree to furnish construction resource material and presentations to Purchaser and its contractors to assist in the identification of archaeological deposits.

TVA agrees that when notified pursuant to above, a TVA Cultural Resources staff archaeologist and/or a consultant, approved by TVA, will visit the discovery site within one working day of notification to examine the suspect material. Based on the findings made during the onsite assessment, monitoring of excavation activities in the vicinity of this discovery may be necessary to ensure that National Register of Historic Places (National Register) eligible deposits are protected.

If, upon examination, the discovered material is determined by TVA to be noncultural or natural in origin, the TVA representative will advise the project manager to proceed with project activities.

If, upon examination, the discovered material is considered by TVA as ineligible for listing in the National Register, TVA will inform the SHPO and concurring parties of these findings. TVA may then advise the project manager to proceed with project activities.

If it is determined by TVA that the recovered archaeological data/materials are insufficient to make a valid assessment of significance, an emergency testing plan will be developed in consultation with the SHPO.

If, upon examination, TVA and the SHPO agree that the archaeological resource is eligible for the National Register, TVA will recommend relocation of the activity to avoid the archaeological resources. If avoidance is not possible, TVA will consult with the SHPO and concurring parties to determine further action.

If, upon examination, TVA determines that the site contains human remains or cultural items, TVA will immediately contact those federally recognized Indian Tribes participating in this consultation. TVA will recommend *in situ* preservation of these resources. If avoidance is not possible, TVA will go forward with the procedures outlined in Stipulation II.

TVA shall give notice to Purchaser of findings and recommendations regarding the discovered material within forty-five (45) days of receipt of notice of the discovery. If notice is not given to Purchaser within such time, the finding will be considered to be ineligible for listing in the National Register and the project manager will be able to proceed with the project.

For purposes of this Agreement, the Construction Period will be the period during which the Purchaser will construct infrastructures, such as roads and utilities for a preliminary plat of any portion of the Property and will continue until all phased properties to be platted are completed. The requirements of Purchaser under this Agreement shall not apply to any subsequent purchaser of a platted lot. With respect to those portions of the Property that are developed for other than platted residential lots, the Construction Period will be the period required to construct planned common amenities that require excavation.

## II. INADVERTENT DISCOVERY OF HUMAN REMAINS

To ensure the respectful treatment of human remains in the event of a discovery of identifiable human skeletal remains or other gravesite identifier, TVA will require the Purchaser to follow the steps listed below:

- 1) Immediately stop work within a 100 ft. area surrounding the location of human remains (the "Discovery Boundary"). This will include removing all equipment from the Discovery Boundary. Depending on the extent of the discovery and the topography of the site, TVA may determine that the Discovery Boundary should be adjusted;
- 2) Pursuant to Tennessee Code §11- 6-107, the Purchaser will notify the Marion County Sheriff and the coroner or medical examiner. The Purchaser shall also contact TVA Cultural Resources within 24 hours. No media will be contacted concerning the discovery. The Purchaser will arrange for a qualified specialist approved by TVA to conduct an onsite investigation of the remains and determine whether the burial(s) is Native American;
- 3) If the burial is Native American, TVA will establish a meeting that includes Indian Tribes participating in the consultation for this MOA, TVA Cultural Resources staff, the SHPO, the Purchaser, and the specialist, if one is involved. To ensure both that the inadvertently discovered remains receive the maximum protection and that costly delays are avoided, this meeting will be conducted, within 15 days of the determination that the burial is Native American; and
- 4) TVA, in consultation with the Indian Tribes, will determine and implement the appropriate treatment and disposition of the human remains and associated

cultural items within forty-five (45) days after determination that the burial is Native American. Until treatment and disposition are determined and implemented, the remains will be protected from further disturbance.

*In situ* preservation of the remains will be the preferred alternative. If avoidance is not possible and the human remains must be relocated, the Purchaser will pay all exhumation and re-interment costs. No scientific study will be conducted on human remains or funerary objects that is disrespectful of their spiritual and sacred nature. Grave remains will not be removed to local, state or federal agencies, universities, or research institutions for scientific study, but will be relocated and reburied. In the event that the human remains and associated cultural items are determined to be culturally affiliated with a specific tribe, TVA will further ensure that the treatment of these remains and cultural items is conducted in accordance with that tribe's preferred treatment plan, including the use of photography. The Purchaser will arrange for and pay the reasonable costs for one representative of the culturally affiliated Indian tribe to be present for the re-interment ceremony. TVA will designate a location for re-interment on TVA fee-owned lands. This location will be determined in consultation with the consulting Indian Tribes for this MOA.

### III. REPORTS:

TVA, in consultation with the SHPO, and concurring Indian Tribes shall ensure that all historical and archaeological investigations undertaken for compliance with this agreement are recorded in formal written reports that meet the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and the Tennessee SHPO Standards and Guidelines for Archaeological Resource Management Studies. All signatories and concurring parties shall be afforded thirty (30) days to review and comment on any archaeological reports submitted in compliance with this agreement.

### IV. TVA ACQUIRED PROPERTIES:

TVA will manage lands transferred into TVA ownership consistent with its responsibilities under Section 106 and Section 110 of the National Historic Preservation Act. Such management will include identification and evaluation of historic properties.

### V. PROPOSED HIKING TRAIL:

When final plans for the proposed hiking trail have been determined by TVA, a Phase I archaeological survey will be conducted of the entire trail system. All resources identified as part of this survey will be avoided and/or protected. The avoidance and protection strategy will be determined in consultation with the SHPO and concurring parties.

Execution of this Memorandum of Agreement by TVA and the SHPO and implementation of its terms, evidence that TVA has taken into account the effects of the undertaking on historic properties, and TVA has complied with its obligations under Section 106 of NHPA.

**SIGNATORIES:**

TENNESSEE VALLEY AUTHORITY

By: 

Date: 8.1.05

[Kathryn J. Jackson, Executive Vice President, RSO&E]

THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER

By: 

Date: 8/4/05

[Herbert Harper, Deputy Historic Preservation Officer]

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

MUSCOGEE (CREEK) NATION OF OKLAHOMA

By:\_\_\_\_\_ Date:\_\_\_\_\_



**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

CHEROKEE NATION

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

THLOPTHLOCCO TRIBAL TOWN

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

CHICKASAW NATION

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

SEMINOLE NATION OF OKLAHOMA

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

UNITED KEETOOWAH BAND

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

KIALEGEE TRIBAL TOWN

By:\_\_\_\_\_

Date:\_\_\_\_\_

**CONCURRING FEDERALLY RECOGNIZED INDIAN TRIBES**

ALABAMA-QUASSARTE TRIBAL TOWN

By:\_\_\_\_\_

Date:\_\_\_\_\_

Exhibit A

**PURCHASER OF PROPERTY:**

I, \_\_\_\_\_, as purchaser of the above described Property hereby agree to the obligations and stipulations in the attached Memorandum of Agreement and will require any contract transferring development rights or transferring any unplatted property to a third party for development, to honor and comply with this Agreement.

By: \_\_\_\_\_ Date: \_\_\_\_\_



## **Appendix A**

### **Documentation of the Area of Potential Effect**

**TVA TRACT NOS. NJR-118F, 119F & 311F**

**EXHIBIT E  
TO  
TENNESSEE VALLEY AUTHORITY  
NOTICE OF PUBLIC AUCTION  
LITTLE CEDAR MOUNTAIN  
TVA TRACT NO. XNJR-21**

**NJR-118F**

Beginning at an aluminum monument (set) (Coordinates: N. 246,764.91, E. 2,088,163.99), being Corner No. 21X-191; thence N29°02'51"W, 294.89 feet to an angle iron (set), being Corner No. 118F-1; thence N11°29'41"W, 89.37 feet to an angle iron (set), being Corner No. 118F-2; thence N05°55'35"E, 53.07 feet to an angle iron (set), being Corner No. 118F-3; thence S51°15'58"E, 249.94 feet to an angle iron (set), being Corner No. 118F-4; thence N33°47'39"E, 146.42 feet to an aluminum monument (set), being Corner No. 118F-5; thence N37°56'58"E, 81.63 feet to an angle iron (set), being Corner No. 118F-6; thence N79°51'57"E, 106.56 feet to an angle iron (set), being Corner No. 118F-7; thence S89°37'46"E, 295.34 feet to an angle iron (set), being Corner No. 118F-8; thence N63°14'41"E, 247.90 feet to an angle iron (set), being Corner No. 118F-9; thence N70°26'19"E, 118.54 feet to an aluminum monument (set), being Corner No. 118F-10; thence S75°35'49"E, 134.48 feet to an angle iron (set), being Corner No. 118F-11; thence N38°48'21"E, 99.28 feet to an angle iron (set), being Corner No. 118F-12; thence N01°02'25"E, 135.51 feet to an angle iron (set), being Corner No. 118F-13; thence N28°50'40"E, 16.42 feet to an angle iron (set), being Corner No. 118F-14; thence S83°33'25"E, 52.93 feet to an angle iron (set), being Corner No. 118F-15; thence S72°28'12"E, 52.66 feet to an aluminum monument (set), being Corner No. 118F-16; thence S62°29'25"E, 88.96 feet to an angle iron (set), being Corner No. 118F-17; thence N41°33'47"E, 215.84 feet to an angle iron (set), being Corner No. 118F-18; thence S12°11'44"E, 190.44 feet to an angle iron (set), being Corner No. 118F-19; thence S31°36'49"E, 112.21 feet to an aluminum monument (set), being Corner No. 118F-20; thence N78°19'13"E, 147.65 feet to an angle iron (set), being Corner No. 118F-21; thence S20°24'30"E, 60.34 feet to an angle iron (set), being Corner No. 118F-22; thence S27°08'05"W, 75.58 feet to an angle iron (set), being Corner No. 118F-23; thence S47°24'55"W, 211.24 feet to an angle iron (set), being Corner No. 118F-24; thence S56°47'21"W, 136.95 feet to an aluminum monument (set), being Corner No. 118F-25; thence S36°12'08"W, 127.69 feet to an angle iron (set), being Corner No. 118F-26; thence S36°42'51"W, 166.39 feet to an aluminum monument (set), being Corner No. 21X-178; thence N79°41'41"W, 94.19 feet to an angle iron (set), being Corner No. 21X-179; thence N04°34'40"E, 83.20 feet to an angle iron (set), being Corner No. 21X-180; thence N48°14'11"W, 119.73 feet to an angle iron (set), being Corner No. 21X-181; thence S69°35'25"W, 171.05 feet to an angle iron (set), being Corner No. 21X-182; thence S53°58'27"W, 300.18 feet to an aluminum monument (set), being Corner No. 21X-183; thence S74°26'06"W, 122.09 feet to an angle iron (set), being Corner No. 21X-184; thence N63°58'21"W, 56.24 feet to an angle iron (set), being Corner No. 21X-185; thence N09°33'47"W, 143.26 feet to an angle iron (set), being Corner No. 21X-186; thence N49°07'25"W, 89.68 feet to an angle iron (set), being Corner No. 21X-187; thence S82°28'12"W, 161.24 feet to an aluminum monument (set), being Corner No. 21X-188; thence S55°26'24"W, 152.89 feet to an angle iron (set), being Corner No. 21X-189; thence S05°37'27"W, 99.49 feet to an angle iron (set), being Corner No. 21X-190; thence N80°58'29"W, 84.72 feet to the point of beginning and containing 15.994 acres, more or less.

EXHIBIT E CONTINUED

**TVA TRACT NO. NJR-311F**

Beginning at an aluminum monument (set) (Coordinates: N. 249,885.19, E. 2,092,083.42), being Corner No. 311F-1; thence N20°06'15"W, 109.65 feet to an angle iron (set), being Corner No. 311F-2; thence N40°29'49"W, 148.87 feet to an angle iron (set), being Corner No. 311F-3; thence N75°50'35"E, 151.81 feet to an angle iron (set), being Corner No. 311F-4; thence N78°49'23"E, 104.73 feet to an angle iron (set), being Corner No. 311F-5; thence S66°02'29"E, 163.93 feet to an angle iron in an aluminum monument with cap missing (set), being Corner No. 21X-129; thence S52°02'24"W, 336.59 feet to the point of beginning and containing 1.212 acres, more or less.

**TVA TRACT NO. NJR-119F**

Beginning at an angle iron (set) (Coordinates: N. 246,358.22, E. 2,089,335.37), being Corner No. 21X-176; thence N78°04'49"E, 391.79 feet to an angle iron (set), being Corner No. 21X-161; thence S03°08'08"E, 279.17 feet to an angle iron (set), being Corner No. 21X-162; thence S02°57'05"E, 293.66 feet to an angle iron (set), being Corner No. 21X-163; thence N63°22'46"W, 507.30 feet to an aluminum monument (set), being Corner No. 21X-175; thence N08°34'40"E, 266.77 feet to the point of beginning and containing 4.025 acres, more or less.

Positions of corners and directions of lines are referred to the Tennessee State Coordinate System and NAD 83(1990) Horizontal Datum. The elevations for establishing the contours are based on NGVD 1929. Located on VTM Quad SEQUATCHIE, TENN. 100-SE.

This description was prepared from Reservation Maps 69 MS 421 P 508-D-1, R.0 and 69 MS 421 P 508-D-3, R.0, and a survey dated May 25, 2005 by:

A. J. Monsees, RLS  
Tennessee Valley Authority  
MR 4B-C  
Chattanooga, TN 37402-2801  
TN License No. 1843

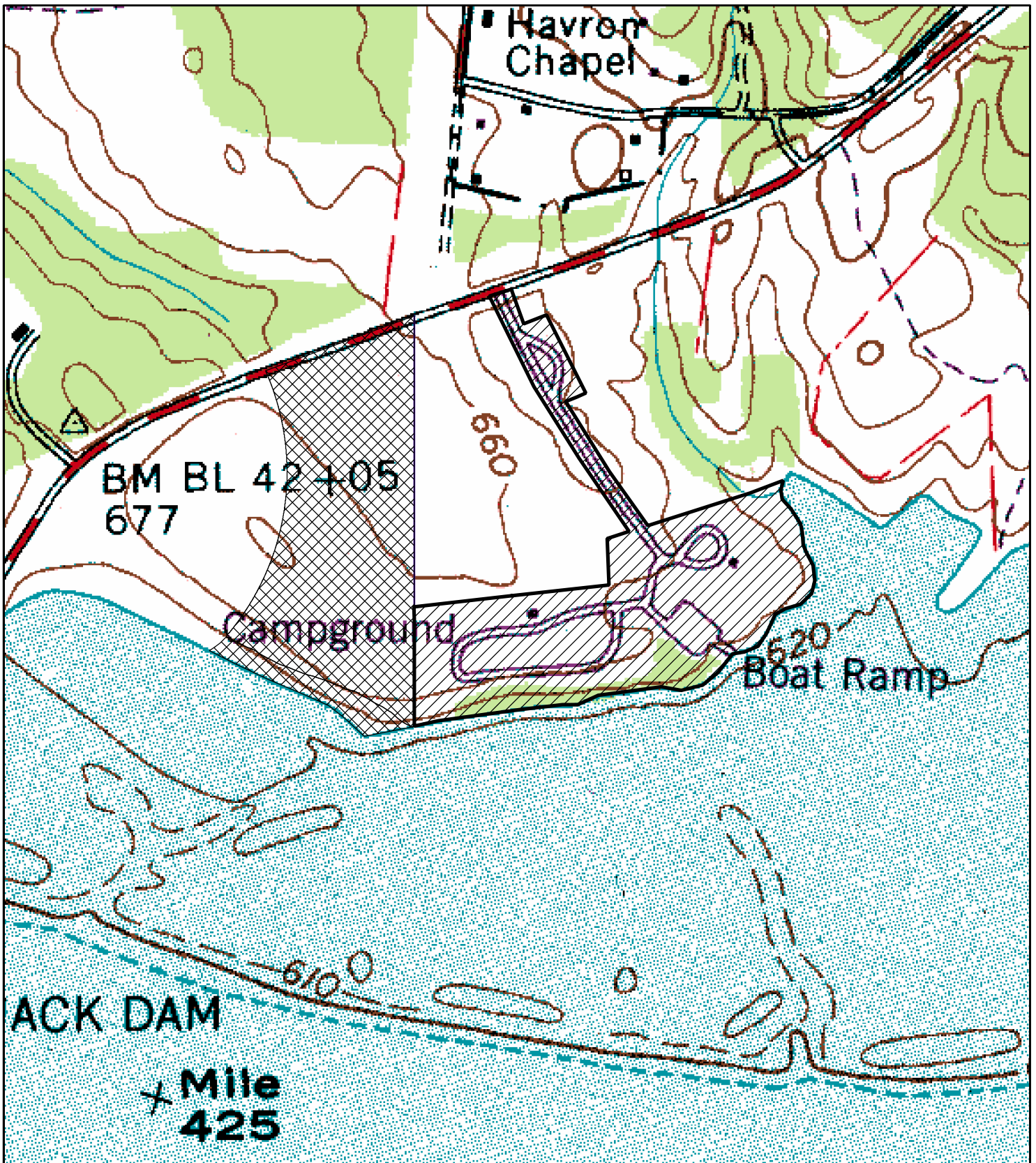


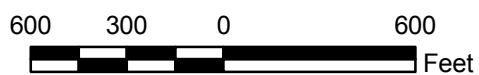


Exhibit F

Nickajack Reservoir  
Shellmound Recreation Area

Legend

-  Shellmound Recreational Area  
(± 28 Acres)
-  Shellmound Relocation Area  
(± 25 Acres)



10/18/05

# EXHIBIT G

**Table 2-4. (Proposed) Nickajack Shores Public Recreation Area**

<b>Land Based</b>
20 grills (scattered throughout the day-use area)
60 total campsites with picnic tables and fire rings
20 RV sites with water and electricity
40 tent/pull through sites 25 with electricity
Dump station
Campground manager residence
Amphitheater (stage with benches – accommodates approximately 50 – people in day-use area)
1 toilet building (restrooms only in day-use area) (3 stalls in women's, 2 stalls in men's)
1 toilet building with showers in (camping area) (3 stalls in women's, 2 stalls in men's and 1 shower in each)
1-picnic gazebo (four tables)
1 large picnic pavilion (six tables), ADA accessible with grills
Play Courts and Areas:
Children's playground equipment
Toddler playground equipment
Paved basketball court also used as children's skating area
Volleyball court (sand)
Tetherball court (sand)
2 Horseshoe pits (regulation size)
Softball field (fixed back-stop with movable bases)
Camper storage (will accommodate 4-6 campers)
Benches scattered through out area
Scenic viewing area – in the overflow camping area (view of the dam/mountains)
Refreshment area (vending machines)
Access road with day-use parking area and ADA spaces
Informal recreation area for hunting, hiking, bank fishing, wildlife viewing, etc., Lands--578 acres
<b>Water Based</b>
Paved boat ramp (triple-lane)
50 car and trailer parking spaces (associated with boat ramp)
Fish cleaning table (flat metal table – located by ramp)
2 fishing piers, ADA accessible with electricity (used during fall color cruise by larger boats and vendors)
Swimming beach
Drinking fountain and water faucet/shower (close to swimming beach)